

News ReleaseNational Labor Relations Board

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Board majority finds union's annual renewal requirement for dues objectors was unlawful

The National Labor Relations Board has ruled that a union violated its duty of fair representation in requiring nonmember dues objectors to restate their position every year, despite their express desire to have the objection continue from year to year.

Under federal labor law, unions and employers may enter into agreements requiring employees represented by a union to pay dues or fees as a condition of employment. A 1988 Supreme Court ruling in *Communications Workers of America v. Beck*, held that unions may charge members and nonmembers fees relating to the union's collective bargaining and contract administration activities but cannot require nonmembers to pay fees unrelated to collective bargaining (i.e., fees related to the union's political and other non-representational activities). Nonmembers have the right to object to paying any portion of dues that is not used for collective bargaining purposes. Unions must provide notice of this option, and calculate the share of dues money used for collective bargaining purposes.

<u>In this case</u>, an employee of Florida-based L-3 Communications Vertex Aerospace LLC, who was represented by the International Association of Machinists and Aerospace Workers, had objected to paying full dues. In 2003, he informed the union in writing that he wished his objection to continue indefinitely. The union responded that all dues objections had to be restated annually. When the employee failed to do so, he was charged the full monthly dues for 2004.

The question before the Board was whether the union's requirement was a breach of the union's duty of fair representation: whether it was "arbitrary, discriminatory, or in bad faith." Chairman Wilma Liebman and Members Craig Becker, found that the annual renewal requirement was "arbitrary" but not discriminatory or in bad faith. In their separate opinion, Members Schaumber and Hayes agreed that the rule was arbitrary but they would also find it discriminatory. They also disagreed that the duty of fair

representation standard was the proper test. In a dissent, Member Mark Pearce found that the union had presented reasonable justifications for its requirement.

The National Labor Relations Board is an independent federal agency vested with the power to safeguard employees' rights to organize and to determine whether to have unions as their bargaining representative. The agency also acts to prevent and remedy unfair labor practices committed by private sector employers and unions.

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